

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SUPPRESSED

FILED

DEC 11 2013

U. S. DISTRICT COURT
E. DIST. OF MO.
ST. LOUIS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No.
)
JAMES CREWS and)
MICHAEL HILBERT,)
)
Defendants.)

4:13CR499 CEJ/SPM

INDICTMENT

COUNT ONE (Bank Fraud)

The Grand Jury charges that:

Introduction

1. At all relevant times, the Defendants James Crews and Michael Hilbert were residents of St. Charles County, Missouri within the Eastern District of Missouri. At all relevant times, the Defendants were engaged in the real estate business, sometimes doing business through various entities including Crews Corporation, Hillcrew Properties, Merz Properties, Eagle Group, and Marathon RE. Defendants owned dozens of rental properties as part of their business.

2. In 2010, the Defendants sought to refinance a number of rental properties through Excel Bank. The holding company of Excel Bank was Investors Financial Corporation of Pettis County (Missouri). At all relevant times, Excel Bank was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation. The Defendant did business with Excel Bank personnel and at locations in St. Louis County within the Eastern District of Missouri. Additionally, on May 4, 2009, the holding company of Excel Bank received \$4,000,000 in capital through the Capital Purchase Program of the Troubled Asset Relief Program (TARP) of the United States Treasury Department.

3. On October 19, 2012, due to its poor financial condition, Excel Bank was closed by the Missouri Division of Finance, and the FDIC was named receiver. At that time, Investors Financial had failed to repay the United States Treasury \$4,000,000 in outstanding TARP funds.

Loan Pool 1

4. In February 2010, Defendants sought to refinance a pool of 29 separate loans, each secured by a single property ("Loan pool 1"). The aggregate amount loaned by Excel Bank for Loan pool 1 was \$2,087,815.09. Of this amount, in excess of \$175,000.00 was escrowed for "rehab" or "fix funds" to be spent on 18 of the 29 properties. For each property with a rehab or fix funds escrow, there was a specific amount set aside for improvements to that particular property. Each of the loans within Loan pool 1 was held in the name of Marathon RE, LLC after the refinancing, having previously been held by Eagle Group, LLC. The loans closed on February 8, 2010.

5. After the loans in Loan pool 1 closed, Defendants made numerous false and fraudulent representations to Excel Bank to draw down on the rehab or fix funds escrowed by Excel.

6. For example, on the loan secured by the residence at 10133 Crown Point, St. Louis, Missouri 63136, which lies within the Eastern District of Missouri and is part of Loan pool 1, on March 11, 2010, Defendant Crews submitted a false construction draw request for "A/C" which is a common abbreviation in the construction industry for air conditioning service or installation or repair. Subsequent inspections by the bank and investigators reveal no air conditioning work was done on this property, contrary to the representation made by Defendant Crews to Excel Bank.

7. For further example, on the loan secured by the residence at 5333 Jennings Station Road, Jennings, Missouri 63136, which lies within the Eastern District of Missouri and is part of Loan pool 1, on March 5, 2010, Defendant Crews submitted a false construction draw request for

“wall framing” to “install” an additional bedroom as well as for a “water heater/AC”. Subsequent inspections by the bank and investigators reveal no bedroom was added to this property nor was a water heater installed.

8. On or before November 1, 2010, the Defendants stopped making payments on Loan pool 1 and on December 21, 2011, Excel Bank accepted the deeds to these 29 properties in lieu of foreclosure.

Loan Pool 2

9. In June 2010, Defendants sought to refinance a pool of 16 separate loans, each secured by a single property (“Loan pool 2”). The aggregate amount loaned by Excel Bank for Loan pool 2 was \$575,198.99. Of this amount, in excess of \$225,000.00 was escrowed for “rehab” or “fix funds” to be spent on the 16 properties. For each property, there was a specific amount set aside for improvements to that particular property. Each of the loans within Loan pool 2 was held in the name of Marathon RE, LLC after refinancing, having previously been held by Crews Corporation. The loans closed on June 4, 2010.

10. After the loans in Loan pool 2 closed, Defendants made numerous false and fraudulent representations to Excel Bank to draw down on the rehab or fix funds escrowed by Excel.

11. For example, on the loan secured by the residence at 10045 Dorothy Avenue, St. Louis, Missouri 63137, which lies within the Eastern District of Missouri and is part of Loan pool 2, on June 25, 2010, Defendant Crews submitted a false construction draw request for funds to “rep(lace) ret(aining) wall.” Subsequent inspections by the bank and investigators reveal no installation or replacement of a retaining wall, contrary to the representation made by Defendant Crews to Excel Bank.

12. For further example, on the loan secured by the residence at 6239 Jefferson

Avenue, Berkeley, MO 63134, which lies within the Eastern District of Missouri and is part of Loan pool 2, on July 23, 2010, July 30, 2010, and August 9, 2010, Defendant Crews submitted false construction draw requests to “purchase A/C units”, “deck repairs”, “finish deck/patio repairs”, and “purchase furnace”. Subsequent inspections by the bank and investigators reveal the back deck of the residence had been removed and that no furnace was installed, contrary to the representation made by Defendant Crews to Excel Bank.

13. On or before November 1, 2010, the Defendants stopped making payments on Loan pool 2 and on December 21, 2011, the holding company of Excel Bank accepted the deeds to these 16 properties in lieu of foreclosure.

14. Between on or about February 8, 2010 and May 27, 2010, within the Eastern District of Missouri and elsewhere, the Defendants,

**JAMES CREWS
and
MICHAEL HILBERT,**

did knowingly and intentionally execute a scheme and artifice to defraud and to obtain money and other things of value under the custody and control of a financial institution the deposits of which were insured by the Federal Deposit Insurance Corporation, to wit: in excess of \$175,000.00, in loan proceeds from Excel Bank.

In violation of Title 18, United States Code Section 1344.

COUNT TWO (Bank Fraud)

15. The allegations contained in paragraphs 1 through 13 are realleged and incorporated by reference.

16. Between on or about June 4, 2010 and September 3, 2010, within the Eastern District of Missouri and elsewhere, the Defendants,

**JAMES CREWS
and
MICHAEL HILBERT,**

did knowingly and intentionally execute a scheme and artifice to defraud and to obtain money and other things of value under the custody and control of a financial institution the deposits of which were insured by Federal Deposit Insurance Corporation, to wit: in excess of \$225,000.00, In loan proceeds from Excel Bank.

In violation of Title 18, United States Code Section 1344.

A TRUE BILL

FOREPERSON

RICHARD G. CALLAHAN
United States Attorney

Thomas C. Albus, #96250
Assistant United States Attorney